

Message Text

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DRAFTED BY ARA/BC/B:RNICHOLSON:EO

APPROVED BY ARA/BC:JEKARKASHIAN

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E.O. 11652: N/A

TAGS: ETRD, BL

SUBJECT: TRADE ACT: COUNTRY ELIGIBILITY FOR GENERALIZED

--- - PREFERENCES

REF:STATE 66492

1. FOLLOWING GUIDANCE WILL BE USED BY DEPARTMENT IN
RESPONDING TO PUBLIC INQUIRIES RE COUNTRY ELIGIBILITY FOR
GSP UNDER NATIONALIZATION AND ARBITRATION PROVISIONS OF THE
TRADE ACT.

2. APPELATE-YOUNGQUIST: IN THE EARLY 1960'S TWO AMERICAN
CITIZENS LOST THEIR LAND IN BOLIVIA UNDER THE GOVERNMENT'S
LAND REFORM PROGRAM. THEIR ATTEMPTS TO OBTAIN COMPENSATION
CONTINUED ON FOR SOME YEARS. IN 1973, AT THE REQUEST OF
THE PROPERTY OWNERS, THE UNITED STATES RAISED THE MATTER
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WITH THE BOLIVIAN GOVERNMENT, WHICH INDICATED THAT IF THE

OWNERS OR THEIR REPRESENTATIVES WOULD COME TO BOLIVIA, THE GOB WAS PREPARED TO DISCUSS A NEGOTIATED SETTLEMENT. HOWEVER, THE AMERICAN OWNERS HAVE FAILED TO PURSUE NEGOTIATIONS IN BOLIVIA. ALTHOUGH THIS DISPUTE REMAINED UNSETTLED FOR SOME YEARS, THE GOB HAS INDICATED ITS WILLINGNESS TO NEGOTIATE IN GOOD FAITH A SETTLEMENT OF THE PROBLEM; UNDER THESE CIRCUMSTANCES THE PRESIDENT HAS DETERMINED THAT BOLIVIA IS FULFILLING ITS OBLIGATIONS UNDER SECTION 502(B)(4)(D)(II) OF THE TRADE ACT OF 1974.

3. IMPC/EMBOSA: IN 1971 THE BOLIVIAN GOVERNMENT, WITH THE PARTICIPATION OF THE U.S. EMBASSY AND OPIC, SETTLED A MINING EXPROPRIATION CLAIM WITH THE INTERNATIONAL METALS PROCESSING COMPANY (IMPC) FOR \$1.5 MILLION. IMMEDIATELY THEREAFTER, THE IMPC PRESIDENT AND THE BOLIVIAN GOVERNMENT ENTERED INTO A JOINT VENTURE - EMBOSA - FOR PRODUCING TIN FROM ORE TAILINGS. IN 1973 THE BOLIVIAN GOVERNMENT CANCELED THIS AGREEMENT ON GROUNDS THAT ADEQUATE FINANCING HAD NOT BEEN ARRANGED. THE IMPC OFFICIALS MAINTAIN THAT THE EMBOSA JOINT VENTURE WAS A PART OF THE COMPENSATION FOR THE 1971 SETTLEMENT, AND THAT THE GOB ACTION AMOUNTS TO FAILURE TO FULFILL ITS OBLIGATIONS TO COMPENSATE. WE HAVE NO CONVINCING EVIDENCE, HOWEVER, OF ANY LINKAGE BETWEEN EMBOSA AND THE IMPC SETTLEMENT. THE CANCELLATION OF THE JOINT VENTURE AGREEMENT DOES NOT ITSELF CONSTITUTE AN EXPROPRIATION UNDER SECTION 502(B)(4) OF THE TRADE ACT OF 1974 SINCE EMBOSA WAS ONLY 49 PERCENT OWNED BY U.S. CITIZENS.

4. FARMABOL: IN 1970 A GROUP OF U.S. INVESTORS ENTERED INTO AN ARRANGEMENT WITH THE BOLIVIAN MILITARY PENSION FUND (CPM) TO OPERATE A QUININE FACTORY IN BOLIVIA AS A MONOPOLY. THE U.S. GROUP INVESTED FUNDS IN THE REHABILITATION AND EQUIPPING OF AN OLD QUININE FACTORY OWNED BY CPM AND BEGAN PRODUCTION. A SERIES OF PROBLEMS SOON AROSE INVOLVING, AMONG OTHER MATTERS, THE ADEQUACY OF FARMABOL'S INCORPORATION AND THE VALIDITY OF THE MONOPOLY. BY MID-1971 A TOTAL OF ELEVEN LAWSUITS HAD BEEN FILED IN BOLIVIAN COURTS COVERING VARIOUS ASPECTS OF THE CASE. IN JULY 1972 LEGAL ACTION WAS SUSPENDED BY AGREEMENT OF THE LIMITED OFFICIAL USE

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PARTIES TO PERMIT NEGOTIATION OF A SETTLEMENT. NEGOTIATIONS HAVE CONTINUED IN BOLIVIA AND IN THE U.S. SINCE THAT TIME. IN SEPTEMBER 1974 THE INVESTORS INFORMED THE DEPARTMENT THAT THEY WERE HOPEFUL A SETTLEMENT WOULD BE REACHED SOON. GIVEN THE APPARENT WILLINGNESS OF THE PARTIES TO REACH A NEGOTIATED AGREEMENT, THE PRESIDENT HAS DETERMINED THAT BOLIVIA IS FULFILLING ITS OBLIGATIONS UNDER SECTION 502(B)(4)(D)(II). KISSINGER

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